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**Congress of the United States**

Washington, DC 20510

May 15, 2003

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Federal Communications Commission  
Office of the Secretary

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

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Dear Mr. Chairman:

We are writing to urge the Commission to give high priority to preserving and promoting Hispanic media ownership opportunities during the Commission's review of the proposed merger between Univision Communications and Hispanic Broadcasting Corporation, and to initiate a rulemaking on the question of whether the Hispanic media market is a separate market for the purposes of the FCC's public interest analysis of this merger or similar mergers in the future.

As you know, our nation has a long-standing and fundamental commitment to minority participation in the broadcast industry. The presence of a diversity of voices, each contributing to our national discourse, is essential to the function of our democratic society. Our concern is that such diversity will be compromised by the approval of this merger, which will aggravate the already-diminished ranks of Hispanic media owners and create a barrier to future growth of Hispanic-owned media.

This spring is the 25<sup>th</sup> anniversary of the Commission's 1978 *Minority Ownership Policy Statement*, which both challenged new generations of minority participants to enter the broadcast industry and helped make such market entry possible for most of today's minority-owned broadcasters. Today, however, because of the proliferation of media mergers and the buyouts of minority-owned broadcast stations by non-minority owned competitors, the plight of minority owned media is more discouraging now than it was a generation ago.

The Black Broadcasting Alliance, which promotes increased minority participation in the broadcasting industry, has found that, since the introduction of the 1996 Telecommunications Act, minority media ownership has fallen by 26 percent. As of 2001, minorities owned only 3.8 percent of the full-power commercial radio and television stations in the nation and only 1.9 percent of TV stations.

The diversity of programming on non-minority-owned media is commendable, but it is no answer to the problem of under-inclusion of minorities in the ownership pool. Minority broadcast ownership enhances diversity of viewpoint, responsiveness to minority communities, and minority employment in the industry. A California Institute of Technology study found that, although non-minority owners may provide programming targeted to minority audiences, minority owners are more likely to provide programming formats of entertainment, news and other programs that better serve the specific, localized interests of minority audiences in their communities. Actual minority ownership thus results in a significant increase in sensitivity to the needs and wants of minority media audiences for entertainment and information.

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Hispanic Americans are now the largest minority group in the nation with over 35 million people and almost 14 percent of the U.S. population. Yet today, thirty years after the first minority-owned television station received its permit, there is only a handful of Hispanic owned television stations in operation. After local television deregulation in 1999, minority television ownership has dropped from 33 to 20 stations and many of those stations are endangered. There have been no minority television acquisitions since 2000.

We are therefore especially concerned about the proposed merger of the Spanish-language properties of two non-Hispanic controlled corporations, Clear Channel (Hispanic Broadcasting Corporation) and Univision. The merger would bring together the leading Spanish-language television and radio stations, yet neither company is controlled by Hispanics. Specifically, we urge you to assess, carefully and publicly, the impact of this merger on competition, independent ownership and the public interest of local Hispanic communities across the country.

Approval of this merger would exacerbate an already serious problem: the growing non-Hispanic control of Spanish-language media by two non-Hispanic controlled corporations. Control of almost 70 percent of Spanish-language media revenue in the ten major markets, which comprise 85 percent of that entire market, would be vested in a single corporation with no Hispanics in positions of control. Indeed, the proposed merger would appear to place control of the entire resulting entity into the hands of a single non-Hispanic individual by virtue of his possession of "super voting" stock. The vast and previously unexamined ramifications of further consolidating the Spanish-language media market, which is already far more extensively consolidated than the English-language media market, under non-Hispanic leadership needs to be thoroughly and publicly reviewed before the Commission takes any final action on this matter.

The Hispanic community relies on Spanish-language media for news, information, culture and entertainment. The proposed merger would place, in one non-Hispanic controlled corporation:

- The two largest Spanish-language television networks;
- The largest Spanish-language radio company;
- The largest Spanish-language cable television holdings;
- 97 percent of Spanish-language internet portal access;
- Dominance of Spanish-language publishing;
- Dominance of Spanish-language recording;
- Dominance of Spanish-language billboards and outdoor advertising;
- The only substantial Spanish-language concert promotion company in the United States (jointly held by Clear Channel).

If the Hispanic media market is a separate and distinct one, then such complete dominance of Spanish-language media by a single corporation of any kind would, obviously, have the same negative implications for Hispanics as similar dominance of English-language media by a single corporation would have for the general population. The Department of Justice has already identified the Spanish-language radio market as a separate and distinct one, but that is as far as their analysis went. The evidence suggests the same conclusion would apply to the Hispanic media market as a whole. Answering this question, as yet posed by the Commission in any public rulemaking or process, should precede the Commission's final consideration of the proposed merger on its merits.

In its ongoing review of the FCC's ownership rules, we doubt that the Commission would conclude that it would be in the public interest for one company controlled by one person

to gain control over English-language media to the same degree that this merger would concentrate control of the Hispanic media market in the proposed entity. We urge the Commission to give the same careful, deliberate consideration to Hispanic Americans and the unique market they comprise that it has given their non-Hispanic counterparts on merger issues, and not to rush through a process that could lead to the dominance of such a huge percentage of Spanish-language media by one company controlled by non-Hispanics. The nation's largest and fastest-growing minority should not be subjected to a media conglomerate that is far more vertically integrated and greater in scale than would be acceptable in English-language media.

Because of the continuing decline in the number of minority broadcast owners, it is essential to have a renewed examination and public debate about the impact of media concentration and the importance of minority ownership. The proposed merger between Univision and Hispanic Broadcasting Corporation is an opportunity to have that debate.

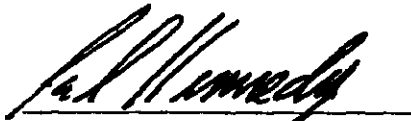
This merger is not in the public interest. It does not expand Hispanic ownership or benefit Hispanic consumers to combine these two non-Hispanic controlled companies into one larger non-Hispanic controlled company with such a dominant share of the Spanish-language media market.

For all these reasons, we request the FCC to initiate a rulemaking procedure to determine whether the Hispanic media market is a separate market for the purposes of the Commission's public interest analysis of the proposed merger and any future mergers. We request as well that the Commission delay any further consideration of the proposed merger until the rulemaking has been completed.

We hope that the Commission shares our goals of preventing the current decline of Hispanic media ownership and promoting community-oriented programming in the Hispanic market through policies that will encourage greater Hispanic media ownership in the future. We urge the Commission to weigh these important issues in the rulemaking we request, and in its subsequent decision on the proposed merger.

With respect and appreciation,

Sincerely,



Edward M. Kennedy



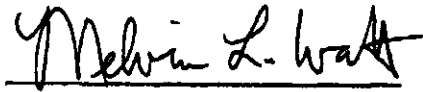
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